

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
PUBLIC MEETING
DECISION FOR ZONING CHANGE PETITION
FILED BY HAINES AND KIBBLEHOUSE, INC.
Thursday, August 25, 2005
7:30PM**

The Hilltown Township Board of Supervisors Public Meeting to render a decision on the Zoning Change Petition filed by Haines and Kibblehouse Quarry was called to order by Chairperson Kenneth B. Bennington at 7:31PM and opened with the Pledge of Allegiance.

Also present were: George C. Egly, Jr. – Vice-Chairperson
Francis X. Grabowski – Township Solicitor
C. Robert Wynn – Township Engineer
Lynda S. Seimes – Township Secretary

Chairperson Bennington announced that he and Supervisor Egly met in Executive Session the morning of Thursday, August 25, 2005, in order to discuss the legal issue of this Zoning Change Petition and proposed Agreement.

A. CHAIRPERSON'S REMARKS – Chairperson Bennington commented that he and Supervisor Egly would be reading from prepared statements this evening, copies of which are attached and will become an official part of these minutes.

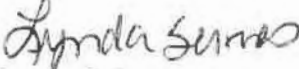
The first Public Hearing to consider the Zoning Change Petition filed by Haines and Kibblehouse in 2003 was held on March 25, 2003, with sixteen additional Public Hearings being held over the course of the past 3 years. As a result, Chairperson Bennington and Supervisor Egly have reviewed and carefully considered over 2,000 pages of testimony from all parties concerned. The Supervisors also retained the services of its own experts and consultants to assist in the review of testimony, data, and documents. Those experts include Mr. Jeff Clarke, a professional hydrogeologist from Del Val Soils; Mr. George Hessler of Hessler Associates, a nationally acclaimed noise and blasting consultant from Virginia; Mr. Andreas Heinrich of Heinrich and Klein, the Township's Traffic Engineer; representatives of the Bucks County Planning Commission regarding planning issues; legal counsel from the law firm of Manko, Gold, Katcher and Fox, including Mr. Joe Manko, Mr. Jonathan Rinde, and Mr. Neil Witkes, in addition to Township Solicitor Francis X. Grabowski of Grabowski Associates; and Mr. C. Robert Wynn, Township Engineer, concerning engineering issues.

B. REVIEW OF PROPOSED AGREEMENT - Chairperson Bennington provided a Power Point presentation, which detailed all paragraphs of the proposed Agreement, and is outlined in the attached prepared statement.

C. DECISION – Motion was made by Supervisor Egly, seconded by Chairperson Bennington, and carried unanimously to accept the Agreement between Hilltown Township and Haines and Kibblehouse, Inc containing all of the limits and new regulations as presented and outlined this evening. There was no public comment.

D. ADJOURNMENT – The August 25, 2005 Public Meeting of the Hilltown Township Board of Supervisors for a decision on the Zoning Change Petition filed by Haines and Kibblehouse, Inc. was adjourned at 8:12PM.

Respectfully submitted,


Lynda Seimes
Township Secretary

8-25-05

CHAIRMAN'S STATEMENT

Good Evening Ladies and Gentlemen:

George and I are here tonight to make a Decision regarding the Zoning Change Petition that was filed by Haines and Kibblehouse back in 2003. With our first hearing occurring on March 25, 2003, we have held sixteen (16) public hearings on the zoning request. As a result of the 16 hearings, we have received close to 2000 pages of testimony from Haines and Kibblehouse, from Hilltown residents and other community neighbors as well.

We have also received thousands of pages of exhibits, reports and other documents which if stacked on this desk would be approximately 6 feet tall.

George and I have taken the last year and a half to closely review all of the testimony, all of the exhibits and all of the information that was presented to us. Additionally, the Board hired and retained its own experts and consultants to review the testimony, data and documents given to us. These experts included hydrogeologists, traffic engineers, planners, nationally-renowned blasting and noise experts and special legal counsel who limit their practice to environmental, DEP and zoning issues. They include Jeff Clarke, a professional hydrogeologist from Del Val Soil Science concerning water issues; George Hessler, of Hessler Associates, a nationally-acclaimed noise and blasting consulting firm from Virginia; Andy

Heinrich of Heinrich & Klein regarding traffic issues; the Bucks County Planning Commission regarding planning issues; several lawyers from the law firm of Manko, Gold, Katcher & Fox including Joe Manko, Jonathan Rinde and Neil Witkes in addition to our Solicitor, Frank Grabowski; and Bob Wynn our Township Engineer concerning engineering issues. We did not have our many experts present their conclusions and opinions in open meetings for a very simple reason. Their recommendations and comments were for the benefit of George and me -- not the applicant. We wanted to obtain the most honest and realistic answers that we could.

The Decision that we are asked to make is probably one of the most difficult decisions that any Board of Supervisors in Hilltown Township has had to make. There has been litigation over the last forty years with Quarry operations. As we all know, we have two Quarries in Hilltown Township; and they both started many many years ago. The Skunk Hollow Quarry began in approximately 1935; and the Blooming Glen Quarry started even earlier than that. Both Quarries started before we ever had zoning in Hilltown Township.

Over the course of time, and before any of us including me and most of you, there was litigation involved with the Blooming Glen Quarry and also the Skunk Hollow Quarry which involved the prior owners of the Quarries. During the period of the 70s and 80s, all of the litigation taking place resulted in a Court-approved Agreement which the Township entered. This 1981 Agreement allowed for the continued quarrying of both Quarries with zoning provisions that had not been previously in place. Please keep in mind that both Quarries predated any zoning laws in Hilltown Township;

and, therefore, started out as non-conforming uses. The 1981 Agreement gave us the first set of zoning regulations which were then subsequently placed within the 1985 Zoning Ordinance. The 1985 Zoning Ordinance established Quarry Districts in Hilltown Township since that is a requirement of State laws. Municipalities must provide for quarry uses; and cannot exclude them from their boundaries.

We are keenly aware of all of the issues that have been raised; and all of the various problems that existed over the years as well. As I said previously, we realize that the Quarries cannot be legally shut down and excluded from Hilltown Township. Quarries are regulated and controlled by the Pennsylvania Department of Environmental Protection and also by the Pennsylvania Bureau of Surface Mining. Our role is a limited one by law in that we can attempt to regulate only those areas that are not under the control of these two State agencies.

The issue before George and me is whether we want to litigate for another 40 years with the Quarries; or whether we can find agreement with Haines and Kibblehouse by which the quality of life for our Township residents can be improved from what now exists. We looked at all of the issues; and we were very mindful that we would not enter into any Agreement or, approve any rezoning of the two parcels unless all of our concerns were addressed to our satisfaction.

As you know, we have had several changes in our Board since the first hearing. Supervisor Bender retired. Supervisor Snyder moved away. Supervisor Manfredi has recused himself from this hearing because of his business relationship with Haines and Kibblehouse. Thus, it comes down to George and me.

George and I felt that we owed it to the approximate 12,000 Township residents that we should investigate whether or not Haines and Kibblehouse would agree to limits, controls and restrictions on their operations which are not in place today within our Zoning Ordinance, the existing 1981 Agreement or in current regulations with either DEP or the Surface Mining Bureau. With this in mind, we authorized all of our consultants to meet with Haines and Kibblehouse over the past nine months to explore the possibility of what concessions, what agreements and what conditions we could extract from Haines and Kibblehouse. During this past nine month period, all our consultants have met with, discussed, negotiated and sometimes argued with the owners of Haines and Kibblehouse and their various consultants. As a result of this long process, a proposed Agreement has been presented to George and me which provides for many new controls, new regulations and new limits which do not exist presently. The proposed Agreement before us states that in exchange for all of the concessions and limits couceded by Haines and Kibblehouse, the Township would then provide for the rezoning of the two requested parcels: namely the Rice property in Blooming Gleu and also the Murphy property at Skunk Hollow.

If you will bear with me, I would now like to give an explanation of what the proposed Agreement contains and provides. As I summarize and explain the Agreement language, I will attempt to point out what is different from existing regulations and what is new regulations and limits. In many cases, this Agreement provides for regulations that have never existed before.

In the event that George and I agree to accept this proposed Agreement tonight, copies will then become available tomorrow morning here at the Township office. Since George and I are acting as judges in this matter, our decision tonight, and our explanation of our decision tonight will be without any public comment. As I stated previously, we held 16 public hearings on this matter; and we believe that every issue has been covered thoroughly. During those 16 hearings, George and I listened to what everyone had to say. It is now time for George and for me to talk; and to make a decision. Therefore, there will be no public comment. I would appreciate it very much if there will be no interruptions, questions or unsolicited comments tonight.

The Agreement that is proposed is 26 pages in length. It has a Table of Contents of 3 pages giving the headings for the various paragraphs. There is an Index of Appendices which identifies 9 Appendices or Exhibits to the Agreement. These Exhibits contain information which also provide for limits and controls over the Quarries. We have had the actual Exhibits converted into a Power Point presentation so that we could show the actual Exhibits upon our video screen. As I go through the Agreement and reach language that discusses each Exhibit, I will call upon Lynda Seimes to

provide us with the appropriate Exhibit on the big screen. I would also like to then call upon our Township Engineer, Bob Wynn, to assist me in identifying certain items upon the Exhibits. Again, if George and I decide to accept the Agreement, the Agreement will include all of the Appendices as Exhibits within the Agreement and be part of the Agreement.

The Agreement starts out with a series of paragraphs which provide for a brief history of the ownership of the two Quarries, the acreage and reference Appendix 1 and Appendix 2. Appendix 1 is a property plan of the H & K Material Quarry at Skunk Hollow; and I would ask that Lynda show us Appendix 1 on the screen. This plan is nothing new. It depicts the existing Quarry tract of 73.486 acres; and it also depicts the proposed Quarry tract of 91.86 acres on Tax Parcel No. 15-34-84. The plan indicates various property lines, existing rights-of-way, existing overhead power transmission lines and towers, fences, contours, roads, occupied structures, surface water, existing outbuildings and wooded area. This Appendix 1 is more for informational purposes and also establishes the identity and location of the Skunk Hollow Quarry.

The initial paragraphs also by way of background introduce us and included Appendix 2 which is a property plan of the Blooming Glen Quarry. I would ask that Lynda show us Appendix 2 of the Blooming Glen Quarry. This Appendix 2 also shows the existing Blooming Glen Quarry of 57.735 acres; and it also shows the proposed Quarry tract which is of 12.329 acres on Tax Parcel No. 15-29-41-1. Appendix 2 shows property lines, lot lines, rights-of-way, the existing earthen berm, fencing, electric lines, contour lines, wooded areas, occupied structures, surface water, utility poles and the

like. This Exhibit is also for informational purposes; and shows what currently exists and the extent of what is being requested at Blooming Glen.

The Agreement also identifies the fact that H & K has filed two separate procedural challenge lawsuits to the validity of the existing Hilltown Township Zoning Ordinance and also the Subdivision Ordinance. These two lawsuits argue that under recent Pennsylvania cases decided by the Pennsylvania Supreme Court that the Township allegedly has flaws or defects in their enactment process many years ago. Let me stop to explain the litigation. First of all, lawsuits involving the Quarry operations are not new in Hilltown Township. As I mentioned previously, there were lawsuits back in the 60s, 70s and early 80s. The Township at that time attempted to close down the Quarries, restrict their development tremendously; but the Township did not win. The various cases back at that point, I am told, reached the Pennsylvania Supreme Court; and the Quarries were allowed since they were in existence prior to zoning establishment in Hilltown. The most recent two separate lawsuits filed have been reviewed by our consultants; and we have been given the opinions of our experts that even if we would win both lawsuits currently pending, we would not have the control or limits that this proposed Agreement presents to us. I will explain that point in detail as I go through the remainder of the Agreement. Suffice to say, the acceptance of this Agreement will provide for the end of all litigation, eliminate the potential risk that the Township might not win; and eliminate the need for the Township to spend hundreds of thousands of dollars in expert witnesses, legal fees and court costs.

Getting to the substance of the Agreement, the first paragraph provides for the rezoning of the Murphey Tract and the Rice Tract. These are the two proposed areas as shown on Appendix 1 and Appendix 2. Appendix 3 mentioned within the first substantive paragraph of the Agreement is the actual proposed Zoning Ordinance which would provide for the rezoning of these two parcels. Appendix 3 is not on our Power Point presentation. Should George and I accept the proposed Agreement tonight, the proposed Agreement will then be the subject of a public hearing on August 31, 2005 at this building at 7:30 P.M.

Paragraph 1 of the Agreement contains three paragraphs which provide for the rezoning of the two parcels, it provides that the Agreement and the new Ordinance shall control the operation of H & K Quarries in the future. Additionally, Paragraph 1 provides for the various uses that will be allowed at the Quarry; and those uses include related uses. Except for one, all of the uses that are listed within the Agreement have previously existed; and were either permitted under the 1981 Agreement or by existing Zoning Ordinances. The only new use that is allowed is a use that would be controlled by the Public Utility Commission and this directly relates to the future use of the Quarry owner by the Township, its Municipal Authority or by H & K. Water withdrawal in those cases would be subject to the Public Utility Commission control because that is what State law provides. That is the only new use that would be allowed.

Paragraph 2 states that all present litigation will be discontinued.

Paragraph 3 discusses the Blooming Glen Quarry's approved DEP permit that allows for the Blooming Glen Quarry to deepen the Quarry pit by an additional 100 feet from its current depth of 250 feet. Paragraph 3 is the Agreement of H & K to forego that permit and to refrain from any further deepening of the Blooming Glen Quarry. Secondly, and just as important, H & K agrees to terminate and to end quarrying at the Blooming Glen site on or before 15 years from the date of this Agreement. Both the Agreement to forego any deepening of the Blooming Glen Quarry pit and the Agreement to end quarrying within 15 years are both important factors to the Township and are two concessions that could not be required without the agreement of H & K.

Paragraph 4 provides for the transfer of seven acres of land to Hilltown on the northwest corner of the Murphey Tract as more fully described on Appendix 4. I would ask Lynda to show us Appendix 4. Appendix 4 indicates that the closest that the Skunk Hollow actual quarry hole can be to anyone is the Oskanian property where there will be an actual setback of 115 feet minimum. This area is proposed to be a Township playground area and to contain the improvements as shown upon Appendix 4. The playground area will have a berm placed around its sides with a fence placed on the outer toe of the berm as shown on Appendix 4. Bob, could you possibly point out the berm area? The berms shall be built when school at the Our Lady of Sacred Heart School is not in session. The Township agrees to mow and maintain the berm area on the playground side; and H & K will maintain and mow the other side.

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Paragraph 5 of the Agreement discusses the Forest Road park area. The Township currently owns approximately 54 acres of ground which is adjacent to the park. H & K agrees to assist the Township in the development of the Forest Road park under paragraphs that are provided later in the Agreement.

Paragraph 6 discusses pre-blast inspections. H & K agrees if requested in writing by anyone to conduct a pre-blast inspection of their home within a radius of 1,000 feet of either Quarry. Paragraph 6 contains eight subsections which then discuss the ability of people within the 1,000 foot radius to request a pre-blast inspection. It provides for notice. It provides that the inspection shall be conducted at the sole cost of H & K within thirty days of receipt from the homeowner's written request. It also provides that upon issuance of future building permits or occupancy permits by the Township that a pre-blast inspection will then be conducted of new homes. The pre-blast inspection shall determine the condition of the dwelling or structure and document any pre-blasting damage or any other physical factor which could reasonably be affected by blasting. Homeowners may arrange to have their own inspector of their choice present during any pre-blast inspection accomplished by H & K. A written report of the survey shall then be given to those involved.

Paragraph 7 concerns the blasting issue; and contains six subparagraphs. All blasting must be done in strict conformity with the requirements of DEP; and we must keep in mind that that is an issue that is regulated by DEP and by the Surface Mining Bureau. H & K, however, agrees that blasting shall only occur between the hours of 9:00 A.M. and

4:00 P.M.; but not during the hours of 11:30 to 12:30 Monday through Friday unless there is an extraordinary circumstance such as an electrical storm. In such circumstance, the Township and Our Lady of the Sacred Heart School or its designated representative shall be properly notified prior to any blasting. Additionally, all homeowners residing within 1500 feet of a blast site who request notification shall be notified by phone within two hours prior to any blast but no later than thirty minutes prior to a blast.

The force of blasting is measured by the term "peak particle velocity". DEP allows for a peak particle velocity of 2 inches per second; and H & K has provided us with records to indicate that they have complied with this State limitation. Nevertheless, H & K agrees to a very important new concession in that despite the DEP allowance of 2 inches per second, H & K will agree to limit its blasting force to no more than .6 inches per second. This is a 70% reduction to the current DEP limit.

Additionally, Paragraph 7 provides that H & K shall contact the Sacred Heart Church and the School at least one hour prior to any blast; and H & K agrees that to the extent reasonable and practical to alter its blasting schedule to accommodate any scheduled activities at the Church or the School.

Paragraph 7 also provides for an absolute guarantee that should the Sacred Heart Church (and by Church I mean all present and future buildings at the Church sites on its two tax parcels including the new Church, the School, the Chapel and the Rectory as well as any other future buildings on either of these two sites in the future) have a pre-blast inspection occur and

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should any subsequent inspection of the Church reveal any damage which the Church asserts in good faith to have occurred through either its Monsignor or its Bishop to have been caused by H & K's blasting activity, H & K shall repair such damage without question.

Paragraph 8 of the proposed Agreement relates to noise; and contains three subparagraphs. Noise shall not exceed 60 decibels under the A scale at the property lines averaged over a five minute period. This obviously does not include blasting or berrn construction which levels are then regulated by DEP. Perhaps not a dramatic point, but H & K shall post signs requesting that vehicles avoid backing up whenever possible; and vehicles shall not back up into the Quarry which would then obviously activate the OSHA heeping noise.

Paragraph 9 relates to equipment. In order to mitigate noise, H & K agrees that all equipment including loaders, off-road trucks and other vehicles shall be equipped with strobe lights for night back-up warnings for use after sundown and until sunrise. Additionally, water trucks shall be used to reduce dust from internal haul roads and H & K agrees to the use of a water spray system on all equipment. Additionally, H & K shall have a street sweeping and vacuum truck sweep streets and road immediately adjacent to both Quarries. H & K agrees that it shall not erect or operate a primary crusher on the Murphey Tract or on the Rice Tract; nor shall it ever be located at an elevation higher than 535 feet at the H & K or 310 feet at the Blooming Glen Quarry which represents the present elevations.

The concrete plant located at the existing Blooming Glen Quarry shall be relocated to the existing H & K Quarry within the next eighteen months. The concrete plant will never be located on the Murphey Tract; and further H & K will within the next twelve months install on all of its crushers a new dust control system known as a NESCO system which utilizes a high pressure fog spray to suppress dust. This requirement was strongly recommended by our own private consultants as being the state of the art newest equipment to provide for more effective dust control on Quarry operations.

Paragraph 10 discusses hours of operation; and we have reduced the hours of operation from the current Ordinance. Hours of operation shall be between 6:30 A.M. and 6:30 P.M. Monday through Friday; and no later than 12:00 Noon on Saturday. The asphalt and concrete plant may operate on Saturday from 6:30 A.M. to 6:30 P.M.

Paragraph 10 also provides for H & K to request temporary expanded hours of operation because of unusual contract requirements upon fourteen days notice of the request to Hilltown Township. While this may seem unusual, we are mindful of the fact that many times PennDOT requires paving to occur during the nighttime. If it makes good sense to us to allow for asphalt plant to operate on rare occasions in order to accommodate paving schedules dictated by PennDOT, we will take that into account.

Paragraph 11 discusses groundwater; and provides totally new limits and regulations that are not provided for under DEP regulations, State law or our current Zoning Ordinance. H & K has agreed to the establishment of a

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boundary area that we will refer to as a "no fault area". These no fault areas are depicted on Appendices 5 and 6 within which H & K shall be responsible for restoring or replacing any existing water supply whenever H & K's mining activities materially affect the quality or the quantity of any existing public or private water supply within the no fault area by either contamination, interruption or otherwise.

I would ask Lynda to bring up Appendix 5. Appendix 5 indicates the area and the extent of the No Fault Area for the Blooming Glen Quarry; and specifically identifies the tax parcels within that area. Additionally, we will have an alphabetical list of all the present property owners of the identified tax parcels here at the Township building if this Agreement is accepted tonight. That list will become available as soon as we are in a position to prepare it. I will not go through the list of names or tax parcels at this point; but the list will be available.

If Lynda will now pull up Appendix 6, this shows the No Fault Area surrounding the H & K Materials Quarry. Like Appendix 5, there is also an express identity of all tax parcels within the No Fault zone; and we will have a list of names as well if the Agreement is accepted; and that list would become available within several days. H & K agrees to restore or replace the affected water supply with an alternate source of water. H & K agrees to restore an adequate residential water supply at its sole cost including the cost of either lowering an existing well pump, drilling a new well, extending the depth of an existing well or such other method including any additional cost involved in either installing a new supply line or a pump. The Agreement provides for a definition of "adequate water supply" by way of pumping

tests. This Paragraph 11 has nine subparagraphs and also provides a procedure by which complaints or any communication shall be controlled and regulated in terms of timeliness. For example, temporary measures shall include the providing of bottled water by H & K to any impacted party within four hours of receipt of the complaint during the daytime. If at night, bottled water shall be provided no later than 10:00 A.M. the following morning. Temporary solution for the loss of water supply shall include the provision for temporary housing, reimbursement for living expenses for meals and laundry. The cost of electric to operate booster pumps in supplying temporary water shall also be at the expense of H & K. The proposed Agreement provides that all wells located within both No Fault Areas shall benefit from this Agreement and also from the proposed Ordinance.

Paragraph 12 provides that at the time the H & K Skunk Hollow Quarry terminates, the reclamation will include the impoundment of the Quarry site for water; and H & K agrees that the Township shall have a right to 60% of all such water generated or produced at the Skunk Hollow location. We have had extensive discussions with our own Water Authority regarding the use of such water. Our Water Authority has told us that they have no present need for additional water for the immediate future. Nevertheless, it is never too early to plan for the future; and our Water Authority will now have the right to a substantial amount of water at some point in the future that will benefit our children and our grandchildren.

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Paragraph 13 discusses what we refer to as "overburden" which is the non-stone material which overlays and in some cases interlays the active stone deposits. H & K agrees that the overburden shall either be immediately removed from the site or placed in the berms as provided by the Agreement.

Paragraph 14 discusses berms; and Paragraph 15 discusses berming standards. As shown on Appendices 7 and 8, H & K shall construct berms which are at least 15 feet in height (but no higher than 50 feet) with a minimum bottom width of 90 feet. If Lynda will show us Appendix 7. Appendix 7 shows us the existing earthen berm as well as the proposed earthen berm which will be 90 feet in width. For the Murphey Tract, you will note that the beginning of the berm is 380 feet from the centerline of Broad Street. Along the western side of the proposed tract there will be a 90 foot wide berm plus an additional 25 feet between the berm and the actual property line. Along Skunk Hollow Road, there will be approximately 100 feet between the centerline of Skunk Hollow Road and the beginning of the 90 foot berm.

Paragraph 15 of the proposed Agreement provides us with berming standards; and contains nine subparagraphs. H & K agrees with the required dimensions of the berm. The outer slope of the berm shall be constructed with a 3:1 slope. The berms facing Broad Street on the Murphey Tract shall be constructed only during such times that students are not attending regular school classes at Our Lady of Sacred Heart School. Further, a chain link 6

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foot fence will be placed along the boundary line of the new Quarry Tracts which shall then interconnect with existing fences also as shown on Appendices 7 and 8. Additionally, on the outer slope of the berm there will be evergreens planted at 15 foot intervals in two staggered rows; and there is a provision that should these evergreens die, they shall be promptly replaced during then next growing season. No quarrying activity shall occur in either new Quarry Tract until the berms are constructed; and signs of identification will be placed at intervals no greater than 100 feet on the chain link required fencing.

Paragraph 16 discusses buffer zones and setbacks; and the zones and setbacks are shown on Appendices 7 and 8. We have shown you Appendix 7; and I would ask that Lynda bring up Appendix 8. Appendix 8 shows the proposed earthen screening berm to the southeast of the Rice Tract. It also shows occupied structures, the extent of the Corps of Engineers jurisdictional field for wetlands, setback areas and evergreen plantings. It also shows the 1,000 foot perimeter. In addition to the setbacks I have mentioned, the Agreement also provides for a 65 foot height maximum for "structures". This term is different than our definition of "building" under our Zouing Ordinance which has a maximum height of 35 feet. Structures include only mechanical equipment that would be present at the Quarry sites. The Agreement does not provide for any buildings to exceed 35 feet in height.

Paragraph 17 states that H & K must agree to all DEP requirements and also Surface Mining Bureau requirements on stormwater discharge.

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Paragraph 18 provides for the relocation of the Broad Street gate to better accommodate trucks. The relocated gate, as shown on Appendix 7, is located approximately 350 feet further into the property to eliminate trucks either waiting or parked on Broad Street. Lynda, if you will bring back up Appendix 7, I would like Bob to point out where the relocated gate will be placed.

Paragraph 19 provides for the reclamation of the H & K Material Quarry and provides for its reclamation as a water impoundment area.

Paragraph 20 provides for the reclamation of the Blooming Glen Quarry. As I stated previously, the proposed Agreement provides for the termination of quarrying at the Blooming Glen Quarry within 15 years. As the Quarry area starts reclamation, it will be done by filling it to its approximate original grade by the use of regulated fill. Regulated fill is a defined DEP term. It does not mean trash. It is inspected fill approved by DEP. At the conclusion of mining and refilling, a part of the property shall then be transferred to Hilltown Township. Before this occurs, the Township shall also have the right to deposit any regulated fill which it has generated in the Township free of charge. Appendix 9 is a map of the reclamation plan for the Blooming Glen Quarry and shows future property lines with the ultimate transfer of the property to Hilltown Township to be used for open space, natural habitat or park and recreation.

Paragraph 21 provides for revegetation of disturbed areas.

Paragraphs 22 through 24 discuss DEP regulations; the removal of all equipment following termination of quarrying activities; and that all copies of applications and documents either from DEP or the Bureau of Surface Mining shall be given to the Township.

Paragraph 25 provides the agreement of H & K to supply stone, sand, asphalt and concrete to Hilltown Township for H & K's posted and published prices less 5%.

Paragraph 26 states that H & K agrees to provide labor, equipment and materials having a value of \$400,000 for site work, excavation and paving work associated with the improvements to the proposed Forest Road Park. Additionally, the paragraph provides an additional \$100,000 for excavation work by H & K associated with improvements to the Broad Street Playground.

Paragraph 27 provides for the agreement of H & K to pay to Hilltown Township a tipping fee of 10¢ per ton of stone mined and sold from the Quarries. The Township did an independent investigation concerning this particular point; and we have determined that there is only one other quarry in the Commonwealth of Pennsylvania which pays a tipping fee. In this case, the municipality receives a tipping fee of 4¢ per ton; and received no other capital contributions or donations.

Paragraph 28 provides that H & K will produce no more than 1.4 million tons of material per year combined at both Quarries; and, in fact, will be limited to no more than 1.4 million tons per year combined at the two

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Quarries. The Township was very insistent that there will be no increased production at either Quarry as a result of any rezoning consideration. H & K has agreed that it shall not increase its production beyond this limit.

Through our experts and consultants, we have verified that the average production rate over the last 5 years per year has been 1.4 million tons.

Paragraph 29 provides for the installation of a traffic light at the intersection of Route 152 and Hilltown Pike if approved by PennDOT; and the cost shall be paid totally by H & K. This off-site improvement requirement is something that we could not require without the agreement of H & K; and it will require also the approval of PennDOT.

Paragraphs 30 and 31 provide for the right of inspection by the Township of the Quarry areas; and also provides for the right of review of any future applications for permits and any issued permits.

Paragraph 32 provides for the establishment of a Dispute Committee. The purpose of the Dispute Committee shall be to resolve differences, disagreements and complaints between H & K, the Township or any citizen. The Dispute Committee shall consist of the Engineer for H & K and the Township Engineer. In the event that those two cannot resolve the dispute, they shall then choose a third independent engineer to propose a solution where the value of the dispute is determined to be less than \$10,000. For any dispute where the total value is determined to be more than \$10,000; the resolution will not be binding to either side; and the matter will then be resolved by legal action.

There are then several paragraphs which neither add or detract from current regulations and essentially provide that H & K has the authority to sign the Agreement and that the Agreement will be governed by the laws of the Commonwealth of Pennsylvania and items such as that. There is one miscellaneous provision which provides for the agreement of H & K to reimburse the Township for costs and expenses that have been incurred by the Township up through today in this process in an amount that exceeds \$61,000. H & K will pay those costs.

To summarize, the proposed Agreement provides conditions and limits which are not now contained either in our Zoning Ordinance, the 1981 Agreement between the Township and H & K or in Pennsylvania Law. While the Township will certainly benefit from the estimated annual tipping fees of \$140,000 and the other contributions and reimbursements in excess of one half million dollars, the Township should really be more interested in the establishment of new regulations and new limitations regarding production limits, the establishment of a No Fault Area, the establishment of a Dispute Committee, the significant blasting velocity limitation, the noise limits, the reduced hours of operation, the termination of the Blooming Glen Quarry within 15 years and obviously all the other limits that are contained within the Agreement.

As I said when I started tonight's meeting, my personal viewpoint is that I want to make sure that we do no unreasonable harm to our environment and that we improve the quality of life for our residents and for our Township. Secondly, I absolutely insisted that we had to have concessions in terms of new limits and new regulations. The No Fault Area

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is a significant new regulation. The Agreement to not increase production is a significant limitation. The establishment of the Dispute Committee is a significant new regulation. The noise limits, the reduced hours of operation are all better regulations than we have ever had. The termination of the Blooming Glen Quarry is a significant concession by the applicant.

At this point, I will ask Supervisor Egly if he has any comments regarding the application and the proposed Agreement before us. Let me add that should the Board formally accept the Agreement tonight, the final part of the process will be a public hearing at which time we will consider adoption of the actual Zoning Ordinance which provides for the zoning change. Obviously if we accept the Agreement tonight, it undoubtedly becomes a foregone conclusion as to what action will occur at that forthcoming meeting. *[pause for George's comments]*.

With that said, I will now entertain a motion to either accept or reject the proposed Agreement of Haines and Kibblehouse.

8-25-05

STATEMENT OF GEORGE EGLY

Thank you, Ken. Yes, I do have a couple of comments. First of all, as a Township representative, I probably have been familiar with Haines & Kibblehouse longer than anyone in either the position of an elected official or a Hilltown employee. As quarry operators go, I believe Haines & Kibblehouse is much better than most. They have been a good neighbor while dealing with difficult issues that affect many of us.

Notwithstanding the professionalism of Mr. Haines and Mr. Kibblehouse, their Quarries deal with difficult issues such as blasting, noise, traffic and many other things. They are difficult issues. Many people have asked me over the years, why don't we simply tell H & K to close down. It just isn't that simple. We can't tell H & K to shut down anymore than we can tell you to leave your home. Under Pennsylvania law, quarry owners have the right to mine rock. In addition to law and the support of that law by the Courts in Pennsylvania, these Quarries have been in Hilltown since the early 1930s. There is nothing that we can do about that.

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What we can do, however, is to seek new limits and new regulations; and I believe that we have done that. These two Quarries will be the most regulated quarries in the Commonwealth of Pennsylvania – if not in the entire country. We have before us an Agreement containing regulations and limits that don't exist now; and, quite frankly, don't exist in other municipalities that have quarries.

It seems to me we have two choices. The first is to reject the Agreement. This will then allow H & K, or any other quarry owner who might own the Quarries some time in the future, to go deeper in Blooming Glen and to continue for as long as they desire. We had a lot of testimony as to the effect of deeper mining at Blooming Glen. That will not occur under this Agreement; and, just as important, the Blooming Glen Quarry will end in 15 years.

I won't go over all of the new regulations and new limits on both Quarries that Ken has already mentioned tonight that are contained within this Agreement; but we wouldn't have any of them if we reject the Agreement.

The second point I'd like to make is, whether we like it or not, there are two outstanding procedural challenges pending against our existing Zoning Ordinance. Our legal people have

advised us of an ongoing dispute between the Pennsylvania Commonwealth Court and the Pennsylvania Supreme Court over how procedural challenges should be handled. Rather than getting into the complexity of the issues that involve the dispute between these two State Courts, I would just as soon that we not go through the risk of another round of Court hearings to decide whether or not a Court in Philadelphia or Harrisburg will decide whether we did something right or wrong 25 years ago. Quite frankly, I think that the Pennsylvania Supreme Court is wrong in how they are deciding procedural challenge cases; and that the Commonwealth Court has used its common sense in their decisions. Unfortunately, the Supreme Court can overrule the Commonwealth Court; and has done so in all of the procedural challenges that have been brought on quarries so far.

I believe that the Agreement before us is our best option; and it provides for a better quality of life to all of our Hilltown Township residents.

Therefore, Ken, I make a motion to accept the Agreement containing all of the limits and new regulations before us tonight.